

Senate Bill No. 732

Passed the Senate September 13, 2001

Secretary of the Senate

Passed the Assembly September 12, 2001

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2001, at _____ o'clock __M.

Private Secretary of the Governor



CHAPTER _____

An act to amend Section 1102.6 of the Civil Code, and to add Chapter 18 (commencing with Section 26100) to Division 20 of, the Health and Safety Code, relating to toxic mold.

LEGISLATIVE COUNSEL'S DIGEST

SB 732, Ortiz. Toxic mold.

Existing law provides the State Department of Health Services with various powers to enforce its regulations, to promulgate regulations to protect the public health, and to enjoin and abate nuisances dangerous to public health. The department is vested with the power to perform studies, evaluate existing projects, disseminate information, and provide training programs to enforce regulations related to public health.

This bill would enact the Toxic Mold Protection Act of 2001. The bill would require the department to convene a task force comprised of various individuals including, but not limited to, health officers, health and medical experts, mold abatement experts, representatives of government-sponsored enterprises, representatives from school districts or county offices of education, representatives of employees and representatives of employers, and affected consumers and affected industries including, residential, commercial, and industrial tenants, proprietors, managers or landlords, insurers, and builders, to advise the department on the development of permissible exposure limits to mold, standards for assessment of molds in indoor environments as well as alternative standards for hospitals, child care facilities, and nursing homes, standards for identification, and remediation of mold.

This bill would require the department to consider the feasibility of adopting permissible exposure limits to molds in indoor environments. If it is determined to be feasible, the department would be required to adopt, in consultation with the task force, permissible exposure limits to mold for indoor environments that avoid adverse health effects. The department would be required to report its progress on developing the permissible exposure limits for molds by July 1, 2003.



This bill would require that, in the process of adopting the permissible exposure limits, the department would be required to conduct studies, consider specific delineated criteria, and consult with the task force to arrive at both permissible exposure limits to mold to avoid adverse effects on health on the general public and alternative permissible exposure limits to avoid adverse health effects for hospitals, child care facilities, and nursing homes, whose primary business is to serve members of a subgroup that is a meaningful portion of the general population. This bill would also require the department, in consultation with the task force, to develop and adopt guidelines for the identification and the remediation of toxic molds.

This bill would require that, after the adoption of permissible exposure limits to molds, the department review and revise the exposure limits at least once every 5 years and consider any new technological or treatment techniques or new scientific evidence that indicates that molds may present a different health risk than was previously determined.

This bill would also require the department to develop and adopt standards for the assessment of the health threat posed by the presence of molds, both visible and invisible or hidden, in indoor environments. The department would be required to consider specific delineated criteria in developing the assessment standard including the balancing of the protection of public health with technological and economic feasibility. The department would also be authorized to adopt alternative assessment standards for hospitals, child care facilities, and nursing homes. The department would be required to report its progress on developing the assessment standards for molds by July 1, 2003.

After the adoption of mold assessment standards, the department would review and revise the exposure limits at least once every 5 years and consider any new technological or treatment techniques or new scientific evidence that indicates that molds may present a different health risk than was previously determined.

The bill would provide for specific protocol to allow the public to be involved in the process to determine permissible exposure limits to mold, guidelines for identification and remediation of mold, and the guidelines for the assessment of molds.



This bill would require the department to develop public education materials and resources to inform the public about the health effects of molds, methods of prevention, methods of identification and remediation of mold growth, and contact information to organizations or governmental entities to assist public concerns.

This bill would, except under specified circumstances, also require that any person who sells, transfers, or rents residential, commercial, or industrial real property or a public entity that owns, leases, or operates a building who knows, or in specified instances has reasonable cause to believe, that mold is present that affects the unit or building, and the mold exceeds the permissible exposure limits to molds, would be required to provide a written disclosure to potential buyers, prospective tenants, renters, landlords, or occupants of the mold conditions. However, this bill would not require a landlord, owner, seller, or transferor to conduct air or surface tests to determine whether the presence of molds exceeds the permissible exposure limits or for mold remediation.

These disclosure duties and requirements would not apply until the January 1 or July 1 that occurs at least 6 months after the department adopts the requisite standards, and guidelines, as provided in the bill.

This bill would authorize the enforcement of all conditions of this bill, including the disclosure provisions, by designated enforcement officers.

The implementation of this bill would depend on the extent to which the department determines funds are available for its implementation.

The people of the State of California do enact as follows:

SECTION 1. Section 1102.6 of the Civil Code is amended to read:

1102.6. The disclosures required by this article pertaining to the property proposed to be transferred are set forth in, and shall be made on a copy of, the following disclosure form:



NOTE TO PRINTING OFFICE: INSERT CAMERA-READY
COPY HERE

for Real Estate Transfer Disclosure Statement

as printed on pages 9 to 13 of Chapter 926, 1996 Statutes.











SEC. 2. Chapter 18 (commencing with Section 26100) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 18. TOXIC MOLD

Article 1. General Provisions

26100. This chapter shall be known, and may be cited, as the Toxic Mold Protection Act of 2001.

26101. For purposes of this chapter, the following definitions apply:

(a) “Affect” means to cause a condition by the presence of mold in the dwelling unit, building, appurtenant structure, common wall, heating system, or ventilating and air-conditioning system that affects the indoor air quality of a dwelling unit or building.

(b) “Authoritative bodies” means any recognized national or international entities with expertise on public health, mold identification and remediation, or environmental health, including, but not limited to, other states, the United States Environmental Protection Agency, the World Health Organization, the American Conference of Governmental Industrial Hygienists, the New York City Department of Health, the Centers for Disease Control and Prevention, and the American Industrial Hygiene Association.

(c) “Certified Industrial Hygienist” means a person who has met the education, experience, and examination requirements of an industrial hygiene certification organization as defined in Section 20700 of the Business and Professions Code.

(d) “Code enforcement officer” means a local official responsible for enforcing housing codes and maintaining public safety in buildings using an interdepartmental approach at the local government level.

(e) “Department” means the State Department of Health Services, designated as the lead agency in the adoption of permissible exposure limits to mold in indoor environments, mold identification and remediation efforts, and the development of guidelines for the determination of what constitutes mold infestation.



(f) “Indoor environments” means the affected dwelling unit or affected commercial or industrial building.

(g) “Mold” means any form of multicellular fungi that live on plant or animal matter and in indoor environments. Types of mold include, but are not limited to, Cladosporium, Penicillium, Alternaria, Aspergillus, Fuarim, Trichoderma, Memnoniella, Mucor, and Stachybotrys chartarum, often found in water-damaged building materials.

(h) “Person” means an individual, corporation, company, association, partnership, limited liability company, municipality, public utility, or other public body or institution.

(i) “Public health officer” means a local health officer appointed pursuant to Section 101000 or a local comprehensive health agency designated by the board of supervisors pursuant to Section 101275 to carry out the drinking water program.

26101.5. All standards that the department develops pursuant to this chapter shall be in accordance with existing administrative law procedures applicable to the development of regulations.

26101.7. The department shall convene a task force which shall advise the department on the development of standards pursuant to Sections 26103, 26105, 26106, 26120, and 26130. The task force shall be comprised of representatives of public health officers, environmental health officers, code enforcement officers, experts on the health effects of molds, medical experts, certified industrial hygienists, mold abatement experts, representatives of government-sponsored enterprises, representatives from school districts or county offices of education, representatives of employees and representatives of employers, and affected consumers, which include, but are not limited to, residential, commercial and industrial tenants, homeowners, environmental groups, and attorneys, and affected industries, which include, but are not limited to, residential, commercial and industrial building proprietors, managers or landlords, builders, realtors, suppliers of building materials and suppliers of furnishings, and insurers. Task force members shall serve on a voluntary basis and shall be responsible for any costs associated with their participation in the task force. The department shall not be responsible for travel costs incurred by task force members or otherwise compensating task force members for costs associated with their participation in the task force.



26102. The department shall consider the feasibility of adopting permissible exposure limits to mold in indoor environments.

26103. (a) If the department finds that adopting permissible exposure limits to mold in indoor environments is feasible, the department, in consultation with the task force convened pursuant to Section 26101.7, shall:

(1) Adopt permissible exposure limits to mold for indoor environments that avoid adverse effects on health, with an adequate margin of safety, and avoid any significant risk to public health.

(2) Notwithstanding paragraph (1), balance the protection of public health with technological and economic feasibility when it adopts permissible exposure limits.

(3) Utilize and include the latest scientific data or existing standards adopted by authoritative bodies.

(4) Develop permissible exposure limits that target the general population.

(b) The department shall consider all of the following criteria when it adopts permissible exposure limits for molds in indoor environments:

(1) The adverse health effects of exposure to molds on the general population, including specific effects on members of subgroups that comprise a meaningful portion of the general population, which may include infants, children age 6 years and under, pregnant women, the elderly, asthmatics, allergic individuals, immune compromised individuals, or other subgroups that are identifiable as being at greater risk of adverse health effects than the general population when exposed to molds.

(2) The standards for molds, if any, adopted by authoritative bodies.

(3) The technological and economic feasibility of compliance with the proposed permissible exposure limit for molds. For the purposes of determining economic feasibility pursuant to this paragraph, the department shall consider the costs of compliance to tenants, landlords, homeowners, and other affected parties.

(4) Toxicological studies and any scientific evidence as it relates to mold.

(c) The department may develop alternative permissible exposure limits applicable for facilities, which may include



hospitals, child care facilities, and nursing homes, whose primary business is to serve members of subgroups that comprise a meaningful portion of the general population and are at greater risk of adverse health effects from molds than the general population. These subgroups may include infants, children age 6 years and under, pregnant women, the elderly, asthmatics, allergic individuals, or immune compromised individuals.

(d) The department shall report to the Legislature on its progress in developing the permissible exposure limit for molds by July 1, 2003.

26104. (a) (1) The department shall, at the time it commences preparation of the permissible exposure limits to mold, provide notice electronically by posting on its Internet Web site a notice that informs interested persons that the department has initiated work on the permissible exposure limits to mold.

(2) The notice shall also include a brief description or a bibliography of the technical documents or other information the department has identified to date as relevant to the preparation of the permissible exposure limits.

(3) The notice shall inform persons who wish to submit information concerning exposure to molds of the name and address of the person in the department to whom the information may be sent, the date by which the information must be received in order for the department to consider it in the preparation of the permissible exposure limits, and that all information submitted will be made available to any member of the public who makes the request.

(b) The department may amend the permissible exposure limits to molds to make the limits less stringent if the department shows clear and convincing evidence that the permissible exposure limits to molds should be made less stringent and the amendment is made consistent with Section 26103.

(c) The department may review, and consider adopting by reference, any information prepared by, or on behalf of the United States Environmental Protection Agency or other authoritative bodies, for the purpose of adopting national permissible exposure limits to molds.

(d) At least once every five years, after adoption of permissible exposure limits to molds, the department shall review the adopted limits and shall, consistent with the criteria set forth in



subdivisions (a) and (b) of Section 26103, amend the permissible exposure limits if any of the following occur:

(1) Changes in technology or treatment techniques that permit a materially greater protection of public health.

(2) New scientific evidence that indicates that molds may present a materially different risk to public health than was previously determined.

26105. (a) The department, in consultation with the task force convened pursuant to Section 26101.7, shall adopt practical standards to assess the health threat posed by the presence of mold, both visible and invisible or hidden, in an indoor environment.

(b) The department shall adopt assessment standards for molds that do the following:

(1) Protect the public's health.

(2) Notwithstanding paragraph (1), balance the protection of public health with technological and economic feasibility when it adopts assessment standards.

(3) Utilize and include the latest scientific data or existing standards for the assessment of molds adopted by authoritative bodies.

(4) Develop standards that target the general population.

(5) The department shall ensure that air or surface testing is not required to determine whether the presence of mold constitutes a health threat posed by the presence of mold, both visible and invisible or hidden, in an indoor environment.

(c) The department shall consider all of the following criteria when it adopts standards for the assessment of molds in indoor environments:

(1) The adverse health effects of exposure to molds on the general population, including specific effects on members of subgroups that comprise a meaningful portion of the general population, which may include infants, children age 6 years and under, pregnant women, the elderly, asthmatics, allergic individuals, immune compromised individuals, or other subgroups that are identifiable as being at greater risk of adverse health effects than the general population when exposed to molds.

(2) The standards for assessment of molds, if any, adopted by authoritative bodies.

(3) The technological and economic feasibility of compliance with the proposed permissible exposure limit for molds. For the



purposes of determining economic feasibility pursuant to this paragraph, the department shall consider the costs of compliance to tenants, landlords, homeowners, and other affected parties.

(4) Any toxicological studies or additional scientific evidence.

(d) The department shall report to the Legislature on its progress in developing the assessment standards for molds by July 1, 2003.

26106. The department may develop alternative assessment standards applicable for facilities, which may include hospitals, child care facilities, and nursing homes, whose primary business is to serve members of subgroups that comprise a meaningful portion of the general population and are at greater risk of adverse health effects to molds than the general population. These subgroups may include infants, children age 6 years and under, pregnant women, the elderly, asthmatics, allergic individuals, or immune compromised individuals.

26107. (a) (1) The department shall, at the time it commences preparation of standards for the assessment of molds, provide notice electronically by posting on its Internet Web site a notice that informs interested persons that the department has initiated work on the assessment standards.

(2) The notice shall also include a brief description, or a bibliography, of the technical documents or other information the department has identified to date as relevant to the preparation of the assessment standards.

(3) The notice shall inform persons who wish to submit information concerning the assessment of molds in indoor environments of the name and address of the person in the department to whom the information may be sent, the date by which the information must be received in order for the department to consider it in the preparation of the assessment standards, and that all information submitted will be made available to any member of the public who makes the request.

(b) The department may review, and consider adopting by reference, any information prepared by, or on behalf of, the United States Environmental Protection Agency or other authoritative bodies, for the purpose of adopting national assessment standards for molds.

(c) At least once every five years, after adoption of assessment standards for molds, the department shall review the adopted



standards and shall, consistent with the criteria set forth in subdivisions (a), (b), and (c) of Section 26105, amend the standards if any of the following occur:

(1) Changes in technology or treatment techniques that permit a materially greater protection of public health.

(2) New scientific evidence that indicates that molds may present a materially different risk to public health than was previously determined.

Article 2. Guidelines for Identification of Molds

26120. The department, in consultation with the task force convened pursuant to Section 26101.7, shall adopt mold identification guidelines for the recognition of mold, water damage, or microbial volatile organic compounds in indoor environments.

26121. Identification guidelines shall include scientifically valid methods to identify the presence of mold including elements for collection of air, surface and bulk samples, visual identification, olfactory identification, laboratory analysis, measurements of amount of moisture, and presence of mold and other recognized analytical methods used for the identification of molds.

26122. (a) Identification guidelines developed by the department shall do all of the following:

(1) Avoid adverse effects on the health of the general population, with an adequate margin of safety, and avoid any significant risk to public health.

(2) Notwithstanding paragraph (1), balance the protection of public health with technological and economic feasibility.

(3) Utilize and include the latest scientific data or existing standards for the assessment of molds adopted by authoritative bodies.

(b) The department shall consider all of the following criteria when it develops identification guidelines for mold:

(1) Permissible exposure limits to molds developed by the State Department of Health Services pursuant to subdivisions (a) and (b) of Section 26103, or what constitutes a health threat posed by the presence of mold, both visible and invisible or hidden, in an



indoor environment, according to the department's standards as developed pursuant to Section 26105.

(2) Standards for mold identification, if any, adopted by authoritative bodies.

(3) Professional judgment and practicality.

(4) Toxicological reports or additional scientific evidence.

(c) The department shall not require a commercial, industrial, or residential landlord or a public entity that rents or leases a unit or building to conduct air or surface tests of units or buildings to determine whether the presence of molds exceeds the permissible exposure limits to mold established by subdivisions (a), (b), and (c) of Section 26103.

(d) The department shall develop a reporting form for building inspection that may be used to document the presence of mold.

(e) The department shall report to the Legislature on its progress in developing identification guidelines for mold by July 1, 2003.

26123. The department may review, and consider adopting by reference, any information prepared by, or on behalf of, the United States Environmental Protection Agency or other authoritative bodies, for the purpose of adopting national identification standards for molds.

26124. (a) The department shall, at the time it commences preparation of identification guidelines for mold, electronically post on its Internet Web site a notice that informs interested persons that it has initiated work on the identification guidelines.

(b) The notice shall include a brief description, or a bibliography, of the technical documents or other information the department has identified to date as relevant to the preparation of the identification guidelines for mold.

(c) The notice shall inform persons who wish to submit mold identification information of the name and address of the person in the office to whom the information may be sent, the date by which the information must be received for the department to consider it in the preparation of the identification guidelines, and that all information submitted will be made available to any member of the public who makes the request.

26125. All identification guidelines for mold published by the department shall be reviewed at least once every five years and



revised, as necessary, based upon the availability of new scientific data or information on effective mold identification.

Article 3. Guidelines for Remediation

26130. The department, in consultation with the task force convened pursuant to Section 26101.7, shall develop and disseminate remediation guidelines for molds in indoor environments.

26131. (a) Remediation guidelines for mold developed by the department shall do all of the following:

(1) Provide practical guidance for the removal of mold and abatement of the underlying cause of mold and associated water intrusion and water damage in indoor environments.

(2) Protect the public's health.

(3) Notwithstanding paragraph (2), balance the protection of public health with technological and economic feasibility.

(4) Utilize and include toxicological reports, the latest scientific data, or existing standards for the remediation of molds adopted by authoritative bodies.

(5) Provide practical guidance for the removal or cleaning of contaminated materials in a manner that protects the health of the person performing the abatement.

(6) Include criteria for personal protective equipment.

(7) Not require a landlord, owner, seller, or transferor, to be specially trained or certified or utilize the services of a specially qualified professional to conduct the mold remediation.

(b) The department shall consider all of the following criteria when it develops remediation guidelines for mold:

(1) Permissible exposure limits to molds developed by the department pursuant to subdivisions (a) and (b) of Section 26103, or what constitutes a health threat posed by the presence of mold, both visible and invisible or hidden, in an indoor environment, according to the department's guidelines as developed pursuant to Section 26105.

(2) Guidelines for mold remediation, if any, adopted by authoritative bodies.

(3) Professional judgment and practicality.

(c) The department shall not require a commercial, industrial, or residential landlord, or a public entity that rents or leases a unit



or building to conduct air or surface tests of units or buildings to determine whether the presence of molds exceeds the permissible exposure limits to mold established by subdivisions (a), (b), and (c) of Section 26103.

(d) The department shall report to the Legislature on its progress in developing remediation standards for mold by July 1, 2003.

26132. (a) The department shall, at the time it commences preparation of remediation guidelines for mold, electronically post on its Internet Web site, a notice that informs interested persons that it has initiated work on the remediation standards.

(b) The notice shall also include a brief description, or a bibliography, of the technical documents or other information the department has identified to date in the preparation of remediation guidelines for mold.

(c) The notice shall inform persons who wish to submit information concerning mold remediation of the name and the address of the person in the office to whom the information may be sent, the date by which the information must be received in order for the department to consider it in the preparation of remediation standards, and that all information submitted will be made available to any member of the public who makes the request.

26133. The department may review, and consider adopting by reference, any information prepared by, or on behalf of, the United States Environmental Protection Agency or other authoritative bodies, for the purpose of adopting national remediation standards for molds.

26134. (a) The department shall make available to the public upon request, information about contracting for the removal of mold in a building or surrounding environment, including all of the following:

(1) Recommended steps to take when contracting with a company to remove mold.

(2) Existing laws, regulations, and guidelines developed by the department, pertaining to permissible exposure limits to mold infestation, identification, and remediation.

(3) Basic health information as contained in existing mold publications.



(b) All mold remediation guidelines published by the department shall be reviewed at least once every five years and revised, as necessary based upon the availability of new scientific data.

(c) (1) The State Department of Health Services shall develop public education materials and resources to inform the public about the health effects of molds, methods to prevent, identify and remediate mold growth, resources to obtain information about molds, and contact information for individuals, organizations, or government entities to assist with public concerns about molds.

(2) The department shall make its public education materials available to public health officers, environmental health officers, commercial and residential landlord organizations, homeowners' organizations, and tenants' organizations. These materials shall be readily available to the general public.

(3) These materials shall be comprehensible to the general public.

(4) These materials shall be produced to include other languages, in addition to English, to accommodate the diverse multicultural population of California.

(5) These materials shall be made available on the department's Internet Web site.

Article 4. Disclosures

26140. (a) Subject to subdivisions (b), (c), and (d), a seller or transferor of commercial or industrial real property, shall provide written disclosure to prospective buyers as soon as practicable before the transfer of title when the seller or transferor knows of the presence of mold, both visible and invisible or hidden, that affects the unit or building and the mold either exceeds permissible exposure limits to molds established by subdivisions (a), (b), and (c) of Section 26103 or poses a health threat, according to the department's guidelines as developed pursuant to Section 26105.

(b) A seller or transferor of commercial or industrial real property shall be exempt from providing written disclosure pursuant to this subdivision if the presence of mold was remediated according to the mold remediation guidelines developed by the department pursuant to Section 26130.



(c) A commercial or industrial real property landlord shall not be required to conduct air or surface tests of units or buildings to determine whether the presence of molds exceeds the permissible exposure limits to molds established by subdivisions (a) and (b) of Section 26103.

(d) The requirements of this section shall not apply until the first January 1 or July 1 that occurs at least six months after the department adopts standards pursuant to Sections 26103 and 26105 and develops guidelines pursuant to Section 26130.

26141. (a) Subject to subdivisions (c), (d), and (e), commercial and industrial landlords shall provide written disclosure to prospective and current tenants of the affected units as specified in subdivision (b), when the landlord knows that mold, both visible and invisible or hidden, is present that affects the unit or the building and the mold either exceeds the permissible exposure limits to molds established by subdivisions (a) and (b) of Section 26103 or poses a health threat according to the department's guidelines as developed pursuant to Section 26105.

(b) The written notice required by subdivision (a) shall be provided:

(1) To prospective tenants as soon as practicable and prior to entering into the rental agreement.

(2) To current tenants in affected units as soon as is reasonably practical.

(c) A commercial and industrial landlord shall be exempt from providing written disclosure to prospective tenants pursuant to this section if the presence of mold was remediated according to the mold remediation guidelines developed by the department pursuant to Section 26130.

(d) A commercial or industrial landlord shall not be required to conduct air or surface tests of units or buildings to determine whether the presence of molds exceeds the permissible exposure limits to molds established by subdivisions (a) and (b) of Section 26103.

(e) The requirements of this section shall not apply until the first January 1 or July 1 that occurs at least six months after the department adopts standards pursuant to Sections 26103 and 26105 and develops guidelines pursuant to Section 26130.

26142. Any tenant of a commercial or industrial real property who knows that mold is present in the building, heating system,



ventilating or air-conditioning system, or appurtenant structures, or that there is a condition of chronic water intrusion or flood, shall inform the landlord of this knowledge in writing within a reasonable period of time. The tenant shall make the property available to the landlord or his or her agents for appropriate assessment or remedial action as soon as is reasonably practicable if the landlord is responsible for maintenance of the property. Nothing in this section is intended to any way affect existing duties and obligations of residential tenants and landlords.

26143. Commercial and industrial landlords, who know or have notice that mold is present in the building, heating system, ventilating or air-conditioning system, or appurtenant structures, or that there is a condition of chronic water intrusion or flood, have an affirmative duty, within a reasonable period of time, to assess the presence of mold or condition likely to result in the presence of mold and conduct any necessary remedial action.

26144. The requirements of this article shall not apply to properties where the tenant is contractually responsible for maintenance of the property, including any remedial action.

26145. Any tenant of a commercial or industrial real property who knows or is informed that mold is present in the building, heating system, ventilating or air-conditioning system, or appurtenant structures, or that there is a condition of chronic water intrusion or flood, and is responsible for maintenance of the property shall inform the landlord in writing of that knowledge as soon as is reasonably practicable and shall correct the condition in compliance with the terms of the contract with the landlord.

26146. (a) A public entity that owns, leases, or operates a building shall provide written disclosure to all building occupants and prospective tenants as specified in subdivision (b) when the public entity knows, or has reasonable cause to believe, that a condition of chronic water intrusion or flood exists, or that mold, both visible and invisible or hidden, is present that affects the building or unit and the mold either exceeds the permissible exposure limits to molds established by subdivisions (a) and (b) of Section 26103, or poses a health threat according to the department's guidelines developed pursuant to Section 26105.

(b) The written notice required by subdivision (a) shall be provided:



(1) To prospective tenants as soon as practicable and prior to entering into the rental agreement.

(2) To current building occupants in affected units or buildings as soon as is reasonably practical.

(c) A public entity shall be exempt from providing written disclosure to prospective tenants pursuant to subdivision (a) if the presence of mold was remediated according to the mold remediation guidelines developed by the department pursuant to Section 26130.

(d) The requirements of this section shall not apply until the first January 1 or July 1 that occurs at least six months after the department adopts standards pursuant to Sections 26103 and 26105 and develops guidelines pursuant to Section 26130.

26147. (a) Subject to subdivisions (b), (d), and (e), residential landlords shall provide written disclosure to prospective and current tenants of the affected units as specified in subdivision (b) when the residential landlord knows, or has reasonable cause to believe, that mold, both visible and invisible or hidden, is present that affects the unit or the building and the mold either exceeds the permissible exposure limits to molds established by subdivisions (a), (b), and (c) of Section 26103 or poses a health threat according to the department's guidelines as developed pursuant to Section 26105.

(b) Notwithstanding subdivision (a), a residential landlord shall not be required to conduct air or surface tests of units or buildings to determine whether the presence of molds exceeds the permissible exposure limits to molds established by subdivisions (a) and (b) of Section 26103.

(c) The written disclosure required by subdivision (a) shall be provided:

(1) To prospective tenants prior to entering into the rental or lease agreement.

(2) To current tenants in affected units as soon as is reasonably practical.

(d) A residential landlord shall be exempt from providing written disclosure to prospective tenants pursuant to this section if the presence of mold was remediated according to the mold remediation guidelines developed by the department pursuant to Section 26130.



(e) The requirements of this section shall not apply until the first January 1 or July 1 that occurs at least six months after the department adopts standards pursuant to Sections 26103 and 26105 and develops guidelines pursuant to Section 26130.

26148. (a) Residential landlords shall provide written disclosure to prospective tenants of the potential health risks and the health impact that may result from exposure to mold by distributing a consumer oriented booklet developed and disseminated by the department.

(b) The requirements of this section shall be provided to prospective residential tenants prior to entering the rental or lease agreement.

(c) The requirements of this section shall not apply until the first January 1 or July 1, that occurs at least six months after the department approves the consumer oriented booklet, as described in subdivision (a).

26149. (a) Nothing in this article shall relieve a seller, transferor, lessor, agent, landlord, or tenant from any responsibility for compliance with other obligations, laws, ordinances, codes, or regulations, including but not limited to the duties outlined in Sections 1941 and 1941.1 of the Civil Code and any other duties provided for under common law.

(b) Nothing in this article shall alter or modify any right, remedy, or defense otherwise available under law.

26150. (a) Nothing in this article shall affect the existing obligations of the parties or transferor to a real estate contract, or their agents, to disclose any facts materially affecting the value and desirability of the property, including, but not limited to, the physical conditions of the property and previously received reports of physical inspections noted on the disclosure form set forth in Section 1102.6 or 1102.6a of the Civil Code.

(b) Nothing in this article shall be construed to change the existing inspection and disclosure duties of a real estate broker or salesperson including, but not limited to, those duties imposed by Section 2079 of the Civil Code.

26151. The specification of items for disclosure in this article does not limit or abridge any obligation for disclosure created by any other provision of law, or which may exist in order to avoid fraud, misrepresentation, or deceit in the transfer transaction.



26152. All items subject to disclosure requirements pursuant to this article shall be subject to enforcement pursuant to Article 5 (commencing with Section 26154).

26153. Neither the transferor nor any listing or selling agent shall be held liable for any error, inaccuracy, or omission of any information delivered pursuant to this article if the error, inaccuracy, or omission was not within the personal knowledge of the transferor, or the listing or selling agent, or was based on information timely provided by public agencies, or by other persons providing relevant information by delivery of a report or opinion prepared by an expert dealing with matters within the relevant scope of the professional's license or expertise, and ordinary care was exercised in obtaining and transmitting it.

Article 5. Enforcement

26154. Public health officers, code enforcement officers, environmental health officers, city attorneys, and any other appropriate government entities may respond to complaints about mold and may enforce standards adopted by the department, pursuant to subdivisions (a), (b), and (c) of Section 26103 and subdivisions (a), (b), and (c) of Section 26105, and enforce the disclosure requirements of Sections 26147 and 26148 that are developed by the department in consultation with the task force. The disclosure enforcement guidelines established by the department pursuant to this section shall include development of a form for disclosure and the penalties, if any, that may be imposed for failure to disclose. No penalty shall be assessed against an owner for failure to disclose under Section 26147 where the owner provides disclosure to the tenants in a form that substantially conforms to the disclosure form developed by the department. Local authority to enforce disclosure requirements pursuant to this section shall not apply until the first January 1 or July 1 that occurs at least six months after the department adopts disclosure enforcement guidelines for compliance with Sections 26147 and 26148.

26155. After the State Department of Health Services, pursuant to administrative law procedures, submits the proposed regulations developed pursuant to this chapter, the Department of Consumer Affairs, in consultation with representatives from the



State Department of Health Services, the Department of Industrial Relations, and members of the task force convened by the department pursuant to Section 26101.7, shall consider and report on the need for standards for mold testing professionals and mold remediation specialists.

Article 6. Implementation

26156. This chapter shall be implemented only to the extent that the department determines that funds are available for the implementation of this chapter.



Approved _____, 2001

Governor

